IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 3282 of 2005

Between:

K. Madhavaiah, S/o K. Balakrishnaiah
R/o. D.No. 6/1472, Sankarapuram, Cuddapah District.

..... PETITIONER

AND

The Regional Transport Officer, Cuddapah.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the demand notice in Proceedings N.Dis. Endt. R.No. 215/B6/05, dt.11-1-2005 on the file of the Regional Transport Officer, Cuddapah demanding payment of Rs. 24,780/- towards tax and penalty (Rs. 16,506/- towards tax and Rs. 8,265/- towards penalty) for the period Q.E. 31-12-2001 to Q.E. 30-6-2004 as arbitrary, illegal, improper, malafide, unconstitutional, without justification and set-aside the same as contrary to the provisions of the A.P. Motor Vehicles Taxation Act, 1963 and the Rules there under and violative of Principles of natural justice and consequently direct the respondents to accept the stipulated life tax in respect of petitioner's omni bus vehicle bearing R.No. AP04 B 8699 (TATA Sumo Jeep) so as to enable the petitioner to ply his vehicle on the road for personal use.

Counsel for the Petitioner: MR.RAJANIKANTH JWALA

Counsel for the Respondent : GP FOR TRANSPORT

The Court made the following :

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THE HON'BLE SRI JUSTICE M.H.S.ANSARI

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AND

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THE HON'BLE SRI JUSTICE T.Ch.SURYA RAO

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W.P.NO.3282 OF 2005

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ORDER: (Per the Hon'ble Sri Justice T.Ch.Surya Rao)

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We have heard the learned counsel for the petitioner and the learned Government Pleader for Transport.

2. The learned counsel for the petitioner squarely represents before us that the petitioner is prepared to pay the life tax of Rs.15,470/-, the penalty of 7% thereon at Rs.1,120/- and in all Rs.16,590/-, as demanded under the proceedings N.Dis.Endt.R.No.215/B6/05 dated 11-01-2005.

3. The grievance of the petitioner appears to be that he stopped the vehicle and the same has been duly intimated to the authority, which according to the Department has not been done so, and, therefore, it is disputed fact. Inasmuch as the petitioner is prepared to pay the life tax and the penalty, we are inclined to direct the authority that in the event the petitioner pays the said amount of Rs.16,590/-, as demanded by the proceedings dated 11-01-2005, the authority concern shall issue necessary token so as to enable the petitioner to run the vehicle. It is open to the authority to conduct an enquiry as is required in accordance with law and pass appropriate

orders thereon and the direction given, *inter alia*, in this order will not come in the way of the authority in conducting such an enquiry. In that view of the matter, we treat the impugned proceedings dated 11-01-2005 as the requisite show cause notice, which appears to be grievance of the petitioner in this writ petition that without issuing show cause notice the amount was demanded under the impugned proceedings, and we direct the petitioner to appear before the authority within two weeks from the date hereof without any further notice and file his objections in respect thereof and in which event it is for the authority to conduct the necessary enquiry by affording personal hearing and pass appropriate orders.

4. With the above observations, the Writ Petition is disposed of. No costs.

M.H.S.ANSARI, J.

T.Ch.SURYA RAO, J.

Dated 17-03-2005.

Note: Issue certified copy on
priority basis.
B/o
skmr

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Copy to:

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1. The Regional Transport Officer, Cuddapah.

2. 2 CCs to G.P. for Transport, High Court Buildings, Hyderabad (OUT).

3. CD copies.